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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,704	07/31/2001	Xuejun Wang	23484-015	2922
30623	7590	06/16/2005	EXAMINER	
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C. ONE FINANCIAL CENTER BOSTON, MA 02111			NGUYEN, PHUONGCHAU BA	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,704

Applicant(s)

WANG ET AL.

Examiner

Phuongchau Ba Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5-22-2</u> . | 6) <input type="checkbox"/> Other: ____ |

Response to Amendment

1. Applicant's argument for restriction of the last Office action is persuasive and, therefore, the restriction of that action is withdrawn.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Gouge (US 2002/0116263).

Regarding claims 1, 23:

Gouge (US 2002/0116263 A1) discloses a method for providing an animated audio message, the method comprising:

receiving an audio-message indication, related to an audio message, via a first wireless communication (0202);

receiving an image indication, related to an image, via a second wireless communication (0202);

associating the image with the audio message (0202); and

animating the image in accordance with the audio message to produce the animated audio message (0202).

Regarding claims 2, 24:

Gouge further discloses wherein the image is a stored image and the image indication identifies the stored image (0202).

Regarding claims 3, 25:

Gouge further discloses storing the animated audio message (0202); and sending retrieval information toward a recipient (mobile phone 2602-fig.28) for retrieving the animated audio message, the recipient being wirelessly identified (0202).

Regarding claims 4, 26:

Gouge discloses wherein the animated audio message is stored in association with a packet-switched-network address (0190-0193, fig.13).

Regarding claims 5, 27:

Gouge further discloses wherein the address is a web address (fig.13).

Regarding claims 6, 28:

Gouge further discloses wherein the retrieval information includes the address (fig.13).

Regarding claims 7, 29:

Gouge further discloses wherein the retrieval information is in a format indicated wirelessly (fig.26).

Regarding claims 8, 30:

Gouge further discloses wherein the format is e-mail (fig.13).

Regarding claims 9, 31:

Gouge further discloses wherein the format is mobile-terminated short message service, and the retrieval information is sent to the recipient via a short message center (0190-0193, fig.26-27).

Regarding claim 10:

Gouge further discloses receiving the audio message from a voice-mail system (0190-0195)

Regarding claim 11:

Gouge further discloses wherein the audio message is stored in the voice-mail system and the audio-message indication identifies the audio message stored in the voice-mail system (0190-0195, 0202-0203).

Regarding claims 12, 32:

Gouge further discloses wherein first wireless communication (one mobile phone sending challenge, fig.13) occurs before the second wireless communication (another mobile phone accepting challenge, fig.17)(also see fig.26).

Regarding claims 13, 33:

Gouge further discloses wherein the first and second wireless communications are portions of the same communication (0189-0202).

Regarding claims 14, 34:

Gouge further discloses wherein the audio-message indication includes the audio message (0196, 0202).

Regarding claims 15, 35:

Gouge further discloses wherein the audio-message indication includes text, the method further comprising converting the text into the audio message (0196-0197).

Regarding claims 16, 36:

Gouge further discloses wherein the audio-message indication includes sufficient information to identify the audio message (0193, 0198, 0202).

Regarding claim 17,

Gouge discloses a method for providing an animated audio message as selected in a wireless communication, the method comprising:

receiving indicia of an animated audio message and a recipient, the animated audio message including an image portion that changes in accordance with an audio

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portion, at least a portion of the indicia being received through a wireless communication (0202, 0192); and

sending toward the recipient message information sufficient for the recipient to access the animated audio message for viewing and listening by the recipient (0193, 0198, 0202).

Regarding claim 18,

Gouge further discloses wherein the message information includes an address of a packet-switched network site (0190-0193).

Regarding claim 19,

Gouge further discloses wherein the address is a universal resource location and the network site is a web page (fig.13).

Regarding claim 20,

Gouge further discloses wherein the indicia include the audio portion and the receiving includes receiving the audio portion from a voice-mail system (0190-0193).

Regarding claim 21,

Gouge further discloses wherein the indicia include an image indication of which of a plurality of stored images to use as the image portion of the message, the image indication being received through the wireless communication (0189-0202).

Regarding claim 22,

Gouge further discloses associating the audio portion with the image portion and animating the image portion in accordance with the audio portion (0202).

Regarding claim 37,

Gouge discloses a system for providing animated audio messages, the system comprising:

a wireless interface (antenna within mobile phone--not shown) configured to receive wireless communications from a wireless communications device, the wireless communications providing or identifying an audio message and providing or identifying an image (0202);

an animator (2804-fig.28) coupled to the wireless interface and configured to animate the image in accordance with the audio message to form an animated audio message (0202);

an animation interface (2806-fig.28) coupled to the animator and configured to transfer the animated audio message from the animator toward a desired destination (0202).

Regarding claim 38,

Gouge further discloses wherein the animation interface is configured to transfer the animated audio message toward the desired destination in a wireless communication (0202).

Regarding claim 39,

Gouge further discloses an audio format engine (2808-fig.28) configured to receive an audio message and convert a format of the received audio message to a desired audio message format if appropriate (0199-0201).

Regarding claim 40,

Gouge further discloses an audio storage device (2832-fig.28) configured to store the audio message in the desired audio message format (0203).

Regarding claim 41,

Gouge further discloses an image engine (2808-fig.28) configured to receive images and convert the images as appropriate into a desired image format (0200).

Regarding claim 42,

Gouge further discloses an image storage device (2832-fig.28) coupled to image engine and configured to store the image in the desired image format (0202).

Regarding claim 43,

Gouge further discloses wherein the wireless communications identify the audio message and the image (0202), and wherein the animator (2804-fig.28) is coupled to the audio storage device and the image storage device (2832) and is configured to retrieve the audio message and the image from the storage devices in accordance with the wireless communications (0202-0205).

Regarding claim 44,

Gouge further discloses wherein the animation interface comprises a streaming server (battlemail servers-fig.27) configured to transfer the animated audio message toward the desired destination as a streaming file.

Regarding claim 45,

Gouge further discloses wherein the animation interface further comprises a web server (battlemail server, i.e., battlemail.com) configured to provide access to the animated audio message via a web page related to the animated audio message (figs. 27, 13).

Regarding claim 46,

Gouge further discloses a Mobile-Terminated Short Message System (MT-SMS) interface (sms center, fig.26) coupled to the wireless interface and configured to transmit an MT-SMS-format message toward the desired recipient, the MT-SMS-format message including a web address of the web page provided by the web server related to the animated audio message (0192-0202, fig. 13, 26).

Regarding claim 47,

Gouge further discloses an e-mail interface (inbox 2832-fig.28) coupled to the wireless interface and configured to transmit an e-mail message toward the desired recipient, the e-mail message including a web address of the web page provided by the web server related to the animated audio message (0192-0202, fig.13, 26, 28).

Regarding claim 48,

Gouge further discloses a voice-mail interface (inbox-fig.28) coupled to the wireless interface and configured to receive the audio message (0192-0202, fig.26, 28).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuongchau Ba Nguyen whose telephone number is 571-272-3148. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 2:00 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**DUCHO
PRIMARY EXAMINER**



6-13-05



Phuongchau Ba Nguyen
Examiner
Art Unit 2665